IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

Crl.MC.No. 234 of 2007()

CC.384/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

.....

PETITIONER:

SURENDRAN, S/O. KRISHNANKUTTY,
CHATHANPARAMBIL (H), THAIKKATTUKARA P.O.,
ALUVA.

BY ADV. SRI.M.K.ABOOBACKER
SRI.B.H.MANSOOR

RESPONDENTS:

---

1. T.K.SURESH, S/O. KESAVAN,
THARAYIL HOUSE, ASHOKAPURAM, ALUVA.

2. THE STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 234 OF 2007

Dated this the 31st day of January, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the N.I. Act. Signature in the cheque is admitted, it is submitted. The contention is that the cheque was handed over as a blank cheque to one M.A.John and from the said M.A.John the complainant must have come into possession of the cheque somehow. The matter has reached the stage of defence evidence. The petitioner did not take necessary steps to produce the said witness or to ensure that summons is issued to him. In these circumstances, on 17/1/07 the learned Magistrate closed the matter and the matter stands posted for pronouncement of judgment today. This petition has been filed yesterday by the petitioner complaining about the denial of opportunity to adduce defence evidence.

2. I shall carefully avoid any detailed discussion on merits. The order refusing permission to summon and examine a defence witness is certainly an interlocutory order, the challenge against which is proscribed by Sec.397(2) of the

Cr.P.C. I do not find any compelling reasons in this case which would justify the invocation of the powers under Sec.482 of the Cr.P.C. to interfere with such an order. Needless to say that along with the final judgment to be passed by the learned Magistrate the petitioner shall be at liberty to challenge, if necessary, the order refusing him permission to examine the defence witness.

3. With the above observations, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge